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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,453	04/16/2004	Stephen K. Pinto	17146-0009001	1046
26161 7590 11/14/2008 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER FRED, RUSSELL WARREN				
ART UNIT 2128		PAPER NUMBER		
NOTIFICATION DATE 11/14/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/826,453

Applicant(s)

PINTO ET AL.

Examiner

Russell Frejnd

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 8.13.08.10.6.08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Examination of Application #10/826,453

1. Claims 1-18 of application 10/826,453, are pending in the application. This communication is in response to the amendment received 13-August-2008, and the 1449s received 13-August-2008 and 6-October-2008.

Claim Rejections under 35 U.S.C. § 112, 2nd Paragraph

2. Claims 3-5 and 7-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independent claims are directed to "A machine-based method", but each of the dependent claims 3-5 and 7-18 are directed to "the method". Conformance to the preambles of the independent claims is required. Claim 11 is also rejected for the vague and indefinite statement "sets aside interactions among the attributes".

Claim Rejections under 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.1 Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by the report provided by applicant and authored by Bounsaythip et al., entitled *Overview of Data Mining for Customer Behavior Modeling*.

3.2 Bounsaythip et al. disclose:

Claims 1, 2 and 6: for a process in which a user generates a set of predictor attributes based on historical data about a customer relationship system being modeled [p. 7, sec. 2.4, see Modeling], enabling the user to automatically generate transformations of the predictor attributes of the data [p. 6, sec. 2.3.3, see Data Preparation], and automatically rank the performance of the predictor attributes [p. 9, sec. 2.4.3, see "identify the most discriminating data variables"], and using the results of the ranking of the performance of the predictor attributes for marketing communications to be made to customers, the customers being subject to the customer relationship system being modeled [p. 4, sec. 2.2, see "communicate with existing customers"].

Claims 3 and 7: ranking a set of predictor attributes with respect to their predictive power for a population of customers with respect to at least one target attribute [p. 4, sec. 2.2, see "the customer features that can be used for profiling, geographic, cultural and ethnic, etc.].

Claims 4, 8, and 10: a graphical display of a potency of the predictor attributes in the identifying of the segments of customers [p. 10, Fig. 6, see the clustering technique providing information about the relationships in the underlying data].

Claims 5 and 9: determine attributes associated with the data that are associated with propensities of the customers, including enabling the user to prepare the historical data, transform the attributes associated with the data [p. 6, sec. 2.3.3, see Data Preparation], and determine optimal attributes for the marketing communications [p. 9, sec. 2.4.3, see "identify the most discriminating data variables"].

Claim 11: the ranking of the performance of the predictor attributes sets aside interactions among the attributes [p. 9, sec. 2.4.4, see constantly revalidating the model to maintain the correctness of the model].

Claim 12: the ranking is done using univariate regression analysis [p. 11, par. 2-4].

Claims 13, 15, and 17: the marketing communications are presented on portable media [p. 5, sec. 2.2, see "magazines"].

Claims 14, 16, and 18: the resulting marketing communications are presented through an internet protocol network [p. 34, sec. 4 Web mining].

Response Guidelines

4. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

4.1 Any response to the Examiner in regard to this non-final action should be

directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, or the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (571) 273-8300

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

Date: 10-November-2008

 /Russell Frejd/
Primary Examiner AU 2128